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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,436	07/26/2001	Dwip N. Banerjee	AUS920010527US1	7371

7590 10/19/2004

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EXAMINER
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KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/915,436

**Applicant(s)**BANERJEE ET AL. *ST***Examiner**

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Official Notice***

Since Applicant(s) did not traverse the Official Notice statements as stated in the previous Office Action (Paper No. 4), the Official Notice statements are taken to be admitted prior art. See MPEP §2144.03.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubu in view of Official Notice (which is admitted Prior Art).

Kokubu teaches a data communications system in which charges to deliver an electronic document over a network are provided prior to the transmission (column 1; lines 23-25). The system includes a charge table in which communication charge information is stored (column 2; lines 10-11).

Kokubu teaches in the packet communication network, the communication charge is determined depending on the amount of information transmitted, transmission speed and transmission distance (column 2; lines 14-17). Kokubu also teaches that the communication charge usually differs depending on a time at which the line is used, therefore the charge table stores communication charge information for respective time frames (column 2; lines 28-31).

Kokubu also teaches that the communication charge is calculated based on the transmission speed determined by a communication protocol and the transmission distance (column 4; lines 43-47). Examiner notes that a communication protocol represents network characteristics. This is clearly represented by the fact that rates change depending on the time of day (i.e. more expensive during peak times, when congestion is greater on the network). Examine asserts that the only way to develop these protocols is to utilize transmission statistics for the network based on congestion and reliability.

Kokubu does not teach delivery insurance. However, as introduced in the prior office action and now relied upon as admitted prior art, it is old and well known for the post office to offer the option for users to purchase insurance when sending an item. The insurance is based on the value of the item being delivered and guarantees on-time delivery of the items. Insurance is used in order to provide the customer with a sense of security that their item will be delivered on time.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Kokubu to offer the operator insurance after presenting the charge information. In this case since the charges are based on the network characteristics the insurance would also be based on this (i.e. speed and distance) as well as the value of the material being delivered. One of ordinary skill at the time the invention was made would have been motivated to combine these references as taught in order to provide the customer with a sense of security that their item will be delivered on time.

***Response to Arguments***

Applicant asserts that the combination of Kokubu in view of USPS does not teach identifying a payment amount to insure delivery based on network characteristics of a network. Examiner disagrees and reminds Applicant that the claim limitation is to be given in it's broadest reasonable interpretation (see MPEP 2111). As such Examiner asserts that Kokubu teaches a data communications system in which charges to deliver an electronic document over a network are provided prior to the transmission. In particular these charges are based on the network characteristics of the network. As such it would be obvious, in light of the old and well known practice of the USPS to insure these transmission based on these same characteristics.

Applicant further asserts that Kokubu does not teach the payment based on at least a number of times a party to whom insurance is being provided has been paid insurance proceeds for untimely delivery of electronic documents. Examiner notes that this concept while not being new or novel (as evidenced by the Applicant in the Specification, page 19; line 21-26 "For example, in one alternate embodiment, the amount a sender pays for the insurance increases as the number of times the sender is compensated for untimely message deliveries. This is analogous to the way in which automobile insurance works, here drivers who file many claims pay higher premiums.) is considered by the USPS when the insurance rate is determined.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer  
Examiner  
Art Unit 3627

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